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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,400	11/23/2005	Patrick Gallois	264231US0PCT	6825
22850	7590	03/25/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
ZHENG, LI				
ART UNIT		PAPER NUMBER		
1638				
NOTIFICATION DATE		DELIVERY MODE		
03/25/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/519,400

Applicant(s)

GALLOIS ET AL.

Examiner

LI ZHENG

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 30-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 4-7 and 30-34 is/are allowed.
- 6) ☒ Claim(s) 3, 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's cancellation of claims 8-29, amendments to claims 1-7, as well as submission of new claims 30-37 filed on 12/26/2007 are acknowledged and entered.
2. Claims 1-7 and 30-37 are pending and examined on the merits.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. The objections to the claims are withdrawn in light of claim amendments.
5. The rejection of claims 1-3 under 35 U.S.C. 112, second paragraph, is withdrawn due to claim amendment.
6. The rejection of claims 1-3 under U.S.C 101 is withdrawn due to claim amendment.

Claim Rejections - 35 USC § 112

Written Description

7. Claim 3 remains rejected and claims 35-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, for the reasons of record stated in the Office action mailed August 24, 2007. Applicants traverse in the paper filed December 26, 2007. Applicants' arguments have been fully considered but were not found persuasive.

Applicants argue that there is no question that those polypeptides of SEQ ID NO: 10 with the amino acid at position 16 and the amino acid at position 23 represent independently or simultaneously, a cysteine or a serine are described (response, page 6, 3rd paragraph).

The Office contends Applicants' arguments are not germane to claims 3 and 35-37.

Applicants argue that those polypeptides which have at least 60% similarity with SEQ ID NO: 10 and which have a conserved antimicrobial activity are described on page 5, lines 16-21 and page 5, line 23 to page 6, line 13 and that the specification on pages 3-4 provides a series of species supporting the genus of polypeptides covered by the phrase (response, page 6, 4th paragraph).

The Office contends that the specification on pages 5-6 merely describes amino acid groups with similar chemical property, which can be used as a general guideline for studying proteins. The specification does not correlate a conserved structure, except for

SEQ ID NO: 10 with the amino acid at position 16 and the amino acid at position 23 represent independently or simultaneously, a cysteine or a serine, to antimicrobial activity. The Office further contends that the species disclosed on page 3-4 are fragments of SEQ ID NO: 10 and there are no species disclosed that have a polypeptide sequence differing from SEQ ID NO: 10. Therefore, they do not represent the claimed genus which encompasses all the polypeptides having at least 60% similarity with SEQ ID NO: 10. Furthermore, it also unclear whether those species still have antimicrobial activities or not.

Scope of Enablement

8. Claim 3 remains rejected and claims 35-37 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an isolated polypeptide comprising the polypeptide of SEQ ID NO: 10 with the amino acid at position 16 and the amino acid at position 23 represent independently or simultaneously, a cysteine or a serine does not reasonably provide enablement for polypeptides having at least 60% similarity with SEQ ID NO: 10. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims, for the reasons of record stated in the Office action mailed August 24, 2007.

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Applicants traverse in the paper filed December 26, 2007. Applicants' arguments have been fully considered but were not found persuasive.

Applicants present same arguments as discussed above. Therefore, for the same reasons as discussed above, the rejection is maintained.

Summary

Claims 1-2, 4-7 and 30-34 are allowed.

Claims 3 and 35-37 are rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li Zheng whose telephone number is 571-272-8031. The examiner can normally be reached on Monday through Friday 9:00 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Stuart F. Baum/
Primary Examiner, Art Unit 1638